

**APPENDIX A****SUBDIVISION AND DEVELOPMENT REGULATIONS****TABLE OF CONTENTS**

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**SEC. 1. AUTHORITY, PURPOSE AND EXTRATERRITORIAL APPLICATION.**

- A. The purpose of this ordinance is to provide for the orderly, safe and healthful development of the area within the City and within the extraterritorial jurisdiction of the City and to promote the health, safety, morals and general welfare of the community.
- B. The application of this Ordinance will consider two levels of development requirements. Level One shall be within the City and within and along corridors and areas identified on a map approved by the City council, made a part of this Ordinance and referred to herein by reference, as the areas most likely to experience growth in the nearest future. Level Two-development authority shall be within the remaining areas of the extraterritorial jurisdiction.
- C. The limits of Level One and Level Two will be subordinate to any past or future agreements between jurisdictions that define(d) or redefine(d) the boundaries of the extraterritorial jurisdiction and that would affect the boundary of Level One or Level Two.
- D. The boundaries describing the limits of Levels One and Two are subject to periodic review and may be adjusted by the City Council.
- E. Should a development or improvement be partially within either Levels of Development, the most restrictive standards shall apply to the entire development or improvement.
- F. In Levels One and Two there shall under all situations be a plat filed with the City of Wichita Falls if located within the Certificate of Convenience and Necessity (CCN) area, and/or where there exist a contract between outside water providers and the City of Wichita Falls. Such plat shall be provided to the Planning Division in conformance with requirements therein and herein as applicable.

**SEC. 2. DEFINITIONS.**

For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meanings ascribed to them in this section

**Alley**

An "alley" is a minor public right-of-way, which is used primarily for vehicular service access to the back or sides of properties otherwise abutting on a public street.

**Block**

A "block" shall be the property fronting on a street between street intersections or 1,200 feet, whichever is less. Where a street intersects only one side of a block, that side of the street shall be calculated in determining the block regardless of an intervening street.

**Board**

The "board" is the Board of Adjustment of the City of Wichita Falls, Texas.

**Border lines**

"Border lines" are water or sewer lines that abut one or more sides of a subdivision, but which serve other land as well as the land in such subdivision.

**Building setback line**

The "building setback line" is the line within a property defining the minimum horizontal distance between a building or structure and the property line.

**City**

Unless otherwise stated herein, "City" shall be City departments, and boards and commissions having purview over these regulations as applicable. "City" may also refer to the area contained within the boundary limits of the City of Wichita Falls.

**Commission**

The "Commission" is the Planning and Zoning Commission.

**Comprehensive Plan**

The "Comprehensive Plan" is a plan of the City of Wichita Falls that may include details related to growth, development, and City resources.

**Cul-De-Sac**

A "cul-de-sac" is a minor street having but one vehicular access to another street and terminated by a vehicular turnaround.

**Dead-end street**

A "dead-end street" is a street, other than a cul-de-sac, with only one outlet.

**Development or developed**

“Developed” or “development” shall refer to those situations where water, sewer, streets or other utility, including storm water provisions, are installed according to standards under this regulation or as may be required.

**Easement**

An "easement" is an interest in land recorded for record that may be granted to a public, quasi public or private entity for installing and maintaining utilities, across, over or under private land together with the right to enter thereon, with machinery and other vehicles necessary for the maintenance of said utilities and that may include areas designated for access to an easement where a utility is located. An easement shall also include those areas reserved for other use that may include ingress and egress, drainage and other such utility.

**Engineer**

An "engineer" is a person duly authorized under the provisions of the Texas Engineering Registration Act, as heretofore or hereafter amended, to practice the profession of engineering.

**Extraterritorial Jurisdiction**

That area outside of a City as defined under Chapter 42 of the Texas Local Government Code.

**Governmental Unit**

A “governmental unit” shall be the City, County, State or federal government, or other political subdivision of the State authorized to accept dedications for streets, easements and/or utilities.

**He**

Use of the term “he” shall not be construed as gender specific.

**Improvement(s)**

An improvement shall be the construction of any structure or site element above the natural grade or additions to or modifications of any such structure or site element. This provision shall also include parking lots.

**Level of Development**

Level of development shall refer to Levels One and Two as defined herein.

**Level One and Level Two**

“Level One and Level Two” shall refer to the application of standards within areas defined on a map, approved by the City Council, and by reference made a part of this Ordinance.

**Lot**

A "lot" is an undivided tract or parcel of land having frontage on a public street and which is, or in the future may be, offered for sale, conveyance, transfer or improvement; which is designated as a distinct and separate tract, and which is identified by a tract or lot number or symbol in a duly approved subdivision plat which has been approved by the Commission and properly filed for record.

**Mineral Extraction**

Mineral extraction may include any and all operations associated with past, present or future oil and gas exploration or production, and/or all tanks, pipes and pumps therein associated with such use. The term shall also include strip mining, soil, sand and gravel recovery or extraction, and other such or similar operations other than that necessary for normal excavation associated with development.

**On-site lines**

"On-site lines" are water or sewer lines within a subdivision, or water or sewer lines abutting one or more sides of a subdivision that serve only land in such subdivision.

**Pavement Width**

The "pavement width" is the portion of a street available for vehicular traffic; where curbs are laid, it is the portion between the faces of curbs.

**Person**

A "person" is an individual, association, firm or corporation.

**Plat**

A "plat" shall refer to both preliminary and final plats and shall be determined by the section in which it appears.

**Plat, Final**

A "final plat" is a plat prepared by a licensed surveyor or registered engineer, bearing the same requirements as a preliminary plat, in the absence of a preliminary plat, and/or in accordance with requirements herein, which is duly acknowledged by the owners, proprietors and those that have interest in the land, or by some duly authorized agent of such owners, proprietors and interest, in the manner required for the acknowledgment of deeds or as required herein and which is to be filed for record in the office of the county clerk of the county or counties in which the land lies.

**Plat, Minor**

"Minor plat" is a final plat of four (4) or fewer lots, fronting on an existing street and not requiring the creation of any new street or the extension of municipal facilities.

**Plat, Preliminary**

A "preliminary plat" is a tentative drawing made by a licensed surveyor or registered engineer for inspection purposes only, showing the entire tract of land sought to be subdivided, accurately describing all of said subdivision or addition by metes and

bounds, locating the same with respect to an original corner of the original survey of which it is a part and giving dimensions thereof of said subdivision or addition, and dimensions of all streets, alleys, squares, parks or other portions of same intended to be dedicated to public use, or for the use of purchasers or owners of lots fronting thereon or adjacent thereto.

**Public right-of-way**

A "public right-of-way" is a strip of land used, or intended to be used, wholly or in part, as a public street, alley, walkway or drainage way.

**Residence**

A building occupied as the dwelling place of one or more persons in which the use and management of sleeping quarters and all appliances for cooking, ventilating, heating, or lighting are under one control, and which shall include one and two-family dwellings, apartment houses, boarding houses and mobile/manufactured homes.

**Shall, May**

The word "shall" is always mandatory. The word "may" is discretionary.

**Streets**

A "street" is a public right-of-way or private access which provides vehicular access to adjacent land, whether designated as a street, highway, thoroughfare, parkway, throughway, avenue, lane, boulevard, road, place, drive, expressway, freeway, or however otherwise designated where such designation or classification may be shown on the most recent Thoroughfare Plan.

- (1) An "arterial street" is one used primarily to provide circulation to various sections of the city.
- (2) A "collector street" is one used primarily to provide circulation within the neighborhood, to carry traffic from minor streets to arterial streets or to carry traffic through or adjacent to commercial, industrial or high population density areas such as large apartment developments.
- (3) A "marginal access street" is a minor street which is parallel and adjacent to an arterial street and which is used primarily to provide access to abutting properties and protection from through traffic.
- (4) A "residential street" is one used primarily for access to abutting residential property.

**Subdivider**

A "subdivider" is any person or any agent thereof dividing or proposing to divide land so as to constitute a subdivision as that term is defined herein. In any event, the term

"subdivider" shall be restricted to include only the owner, equitable owner or authorized agent of such owner or equitable owner of land sought to be subdivided.

**Subdivision**

A "subdivision" is the division of any tract of land into two (2) or more parts. Subdivision includes resubdivision. For the purpose of this Ordinance, a single lot plat shall be considered a subdivision.

**Surveyor**

A "surveyor" is a person duly authorized under the provisions of the Texas Registered Public Surveyors Act, as heretofore or hereafter amended, to practice the profession of public surveying.

**Tank Battery**

A "tank battery" shall generally consist of multiple tanks used for the containment or storage of fuels or fuel products or by-products. A single tank may also be considered a tank battery.

**Thoroughfare Plan**

The "Thoroughfare Plan" is intended to address future development by reserving rights-of-way to support development, and shall be a plan adopted by the City Council that reflects the existing, future or functional classification of all streets, roads and highways indicated therein and the standards associated with right-of-way and paving width.

Definitions not expressly prescribed herein are to be construed in accordance with customary usage in municipal planning and engineering practices.



## **SEC. 3. PLATTING PROCESS AND CONDITIONS**

### **3.1 General**

- A. Whenever a subdivider desires to create a subdivision within the City or its extraterritorial jurisdiction, he shall plat the property, construct the site improvements, and meet all of the other requirements of this ordinance.
- B. No subdivision of land shall occur as to make or create a situation as to make any part of the resulting tract, parcel or lot nonconforming.

### **3.2 Plat Required**

- A. Whenever the owner(s) of platted lot(s) within the City or its extraterritorial jurisdiction proposes to construct or has constructed a structure that crosses a lot line or has violated setback requirements, such owner shall replat the lots in accordance with this ordinance.
- B. Whenever the owner of a tract of land, within the City or its extraterritorial jurisdiction, which has not been platted proposes to sell such tract in whole or in part, or to construct or repair any building or other structure thereon, or to connect said tract with any water or wastewater utility, he shall plat such tract in accordance with this ordinance. Even though he plats such tract in whole or in part as a single lot, he shall be required to dedicate the required boundary street right-of-way for the entire original tract as it exist prior to the plat, and comply with all other applicable requirements of this ordinance if shown on the Thoroughfare Plan, in the Metropolitan Transportation Plan or as required by the County. Provided, however, the owner will not have to plat the tract if such tract was subdivided from a larger tract no later than December 31, 1927. However, if the tract was subdivided from a larger tract on or after September 28, 1964, the larger tract must be platted to show the smaller tract as a lot therein.

Under the above condition, the dedication of right-of-way along a remaining unplatted tract or parcel, where the original parcel, tract or lot was unplatted, will not require the platting of the remainder of the tract or parcel if there is no provision of municipal or other services required for the remaining tract.

### **3.3 Platting Assistance**

Prior to the official submittal of a preliminary plat, the subdivider may consult with and present a proposed plan of subdivision to the Planning Division for comments and advice on the procedures, specifications and standards required by the City for the subdivision of land, and who may use the services of other City departments as required.

### **3.4 Fees.**

At the time a subdivider applies for approval of a preliminary plat or final plat or replat, he shall pay to the City, through the Planning Division, a fee to cover the costs of reviewing and processing the plat as provided below. The area for revised preliminary plats shall be determined by the area changed from the previous submission. This fee shall be in addition to other fees required by the City.

Fees shall be established as provided in the development fee ordinance adopted by the City Council, which may from time to time adjust and revise the fees established, without amending this ordinance.

### **3.5 Exceptions to Platting or Fees**

- A. The following types of plats are specifically exempt from the payment of fees:
  - 1. Plats submitted by the City or any of its departments.
  - 2. Plats submitted by any governmental or educational agency.
  - 3. Plats submitted to correct minor drafting errors in recorded plats.
  - 4. Plats filed for the purpose of dedicating land to the City in which no other subdivision of land is shown.
  - 5. Replats occasioned by governmental action.
- B. The following situations are exempt from platting requirements:
  - 1. Remodeling an existing structure without adding to the floor area.

2. Adding additional floor area or constructing accessory structures to an existing single-family or duplex residential use, when such addition or construction is less than fifty (50) percent of the existing floor area and does not encroach over a utility line or easement and/or does not exceed a value equal to or greater than 50 percent of the tax appraised value of the improvement immediately prior construction.

### **3.6 Submission Requirements**

- A. The subdivider, or his engineer or surveyor shall submit to the Planning Division:
  1. four (4) black line copies of the plat;
  2. a legible-after-reproduction 8½" x 11" copy of the plat that includes all information contained on the full-size plat, with the exception of field notes, metes and bounds descriptions, and signature blocks; and
  3. a fee for reviewing and processing as prescribed by the department.
- B. Following approval of a final plat by the City, a digital copy of the plat in a format required by the Planning Division and/or Department of Public Works shall be submitted with all corrections as required. If streets are proposed to be constructed in lieu of an escrow, a copy of the plat prior to filing will be required showing angle, bearings, distances, etc.
- C. All plats must be received at least fifteen (15) days prior to the Commission meeting at which they are to be considered for approval.
- D. The plat shall be drawn on sheets twenty-two by thirty-six inches (22" x 36") with a minimum three-quarter inch (¾") binding margin on the left side of the sheet and one-quarter inch (¼") margins on the other three sides. A reduced size may be considered by the Planning Division and/or Department of Public Works if legible in all respects and is compatible with archival requirements of the City.
- E. The plat shall be drawn to a scale of one hundred (100) feet to the one (1) inch. Other scales may be considered by the Planning Division and/or Department of Public Works if legible in all respects and is compatible with archival requirements of the City. The Planning Division and/or Department of Public Works may require a reduced scale. When more than one sheet is necessary to accommodate the entire area, an index

sheet showing the entire subdivision at an appropriate scale shall be attached to the plat.

### **3.7 Plat Processing**

- A. The Planning Division, Department of Public Works, Department of Parks and Recreation, Health Department, Fire Department, Traffic Division and others whose purview is sought shall check the plat as to its conformity with any plans, standards and specification set forth herein or referred to herein.
- B. A copy of the plat shall be submitted by the Planning Division to various public, quasi-public or private entities that may have a real, tangible or service interest in the property, as approved by the City, to determine conformity with the standards and specifications for their interest.
- C. The various entities shall return comments to the Planning Division with their recommendations and/or requirements as to modifications, additions or alterations of such plat, if any.
- D. All requirements and City recommendations will be presented to the Commission for their review and consideration at a scheduled meeting. These comments shall be considered part of the process required for approval unless the Commission acts to modify or remove such requirement, unless prohibited from doing so. The Planning Division and/or Department of Public Works may authorize or require minor amendments to the plat to conform to the provisions of this Ordinance.
- E. The Commission shall determine whether the lands are suitable for platting. The services of any department of the City may be utilized to this end. Land subject to flood or deemed to be topographically unsuitable because of relief, drainage, soil character or other conditions shall not be platted for any use which may increase the danger to health, life or property or aggravate erosion or flood hazard.
- F. Within thirty (30) days after the plat is formally filed, the Commission shall approve or disapprove such plat. A plat shall be considered filed with the City when it is presented to the Commission for their review during a scheduled meeting.

## **SEC. 4. PRELIMINARY PLAT.**

### **4.1 General**

Whenever a subdivider desires to make a subdivision he shall cause to be prepared a preliminary plat by a surveyor or engineer and, when required, site plans and declarations in accordance with this ordinance, and the Code of Ordinances as applicable.

### **4.2 Changes to Preliminary Plats**

If, after approval of a preliminary plat, changes thereto are required or desired, a revised preliminary plat shall be submitted following the same procedures as required for the original preliminary plat.

### **4.3 Plat Content**

The plat shall show the following:

- A. Names and addresses and phone numbers of the subdivider(s), record owner, engineers and surveyor.
- B. Proposed name of the subdivision that shall not have the same spelling as or be pronounced similar to the name of any other recorded subdivision located within the City or within its extraterritorial jurisdiction. The name shall appear at the top of the drawing and shall be the largest lettering on the plat.
- C. Names of adjacent subdivisions and the owners of adjoining parcels of unsubdivided land, and an indication of whether or not adjacent properties are platted.
- D. Legal description of the subdivision by metes and bounds.
- E. Primary control points or descriptions and ties to such control points to which all dimensions, angles, bearings, block numbers and similar data shall be referred.
- F. Subdivision boundary lines indicated by heavy lines and the computed acreage.
- G. Existing sites as follows:

1. The location, name, description, and purpose of all existing or recorded streets, alleys, reservations, easements or other rights-of-way within the subdivision, intersecting or adjacent to its boundary or forming such boundary. Areas previously dedicated and shown on the plat shall have a statement shown in the affected area stating that it has been previously dedicated.
  2. The location, dimensions, description, name and purpose of all existing or recorded lots, parks, public areas, permanent structures and other sites within or adjacent to the subdivision.
  3. The location, dimensions, description and flow line of existing watercourses and drainage structures within the subdivision or adjoining tracts. In the event any portion of the subdivision lies within or abuts an officially designated floodplain and/or floodway, the delineation of such floodplain and/or floodway shall be clearly shown on all plats submitted for approval.
  4. The location of existing structures if necessary to verify that a nonconforming situation has not been or will not be created.
  5. All existing features, including, but not limited to, easements, transmission lines, etc. shall be shown by dashed lines.
- H. The location, dimensions and, description of all proposed streets, alleys, drainage structures, parks, other public areas, reservations, easements or other rights-of-way, lots and other sites and all rights-of-way and other public areas dedicated shall state within that area that the property is "proposed to be dedicated"
- I. Date of preparation, written and graphic scales of plat, and north arrow.
- J. Topographical information shall include contour lines on two (2) vertical feet intervals.
- K. A number to identify each lot or site. Block numbers may be used. The Planning Division shall determine the applicability and the requirements for meeting this provision.
- L. Front building setback lines on all lots and sites and side yard building setback lines at street intersections.
- M. Location of City limits line and the outer border of the city's extraterritorial jurisdiction if they traverse the subdivision, form part of the boundary of the subdivision or are adjacent to such boundary.

- N. The location of any noise contour line, approach/departure clearance surface, inner or outer horizontal surface, conical or transitional surface or other such surfaces as required by the Planning Division and as applicable for Sheppard Air Force Base and/or Kickapoo Downtown Airpark.
- O. A vicinity map that shows the location of the project that shall show arterials and/or highways in the vicinity for reference.

#### **4.4 Preliminary Plat Approval**

- A. Approval of a preliminary plat by the Commission shall be deemed an expression of approval of the layout submitted on the preliminary plat as a guide to the installation of streets, water, sewer and other required improvements and utilities and to the preparation of the final or record plat. Approval of a preliminary plat shall not constitute automatic approval of the final plat. The plat shall accurately locate all elements as required herein. The accuracy of such information shall be the responsibility of the property owner and/or his agent.
- B. Approval of a preliminary plat shall be effective for two years.
- C. If no development has occurred which would affect the previously approved plat, at the end of the two years of effective approval, the Commission may, upon application of the subdivider, extend the approval another two-year period without the submission of a new preliminary plat by voting an approval of the original preliminary plat.
- D. A preliminary plat shall be revised if there are discovered to be constraints to the development as proposed on the preliminary plat. Should such constraints or obstacles be found, the Planning Division and/or Department of Public Works shall require the submission of an amended preliminary plat that recognizes, mitigates or otherwise allows for the effects of the constraint or obstacle as approved by the Planning Division and/or Department of Public Works.

## **SEC. 5. Final Plat**

### **5.1 General**

Whenever a subdivider desires to make a subdivision he shall cause to be prepared a final plat by a surveyor or engineer, appropriate site improvement plans, and complete the certificates prescribed in this section. If desired by the subdivider, and following approval by the Planning Division and Department of Public Works, the final plat may consist of only that portion of the approved preliminary plat that he proposes to record at that time. However, such portion shall conform to all of the requirements of this ordinance. A plat shall not be considered approved by the Commission unless it complies with all requirements herein.

### **5.2 Plat Requirements**

- A. The final plat shall contain all of the features required for preliminary plats or as required by the Planning Division and/or Department of Public Works and it shall be accompanied by the following site improvement plans bearing the seal of an engineer:
1. Sanitary sewers. Detailed engineering plans of the proposed sewer facilities as required by the Department of Public Works.
  2. Water. Detailed engineering plans of the proposed water facilities as required by the Department of Public Works.
  3. Storm drainage. If within Level One, detailed engineering plans of the proposed storm drainage facilities as required by the Department of Public Works.
  4. Streets, curbs and gutters. If within Level One, detailed engineering plans of the proposed streets, curbs and gutters as required by the Department of Public Works. Within Level Two detailed engineering plans of the proposed streets as required by the Department of Public Works. Determination of the need for curb and gutter within Level Two areas shall consider the density of existing development, plans or preliminary plats considered or approved within the last five years, and other such issues. A plat that includes both Level One and Level Two areas shall require the submission of curb and gutter requirements for the entire development, or as required herein.



- B. The final plat and the accompanying site improvement data shall be approved by the Director of Public Works.
- C. Street dedications within Level Two, and those areas within Level One outside of the City shall be made to the county in which the street is proposed. The width of the required dedication shall be the greater width between the City and county requirements.

### **5.3 Plat Content**

- A. In addition to the requirements for the preliminary plat, the final plat shall also include the following:
  - 1. The exact location, dimensions, name, description, and purpose of all existing or recorded streets, alleys, reservations, easements or other rights-of-way within the subdivision, intersecting or adjacent to its boundary or forming such boundary, with accurate dimensions, bearing or deflecting angles and radii, area, and central angle, degree of curvature, tangent distance and length of all curves where appropriate. Areas previously dedicated and shown on the plat shall have a statement shown in the affected area stating that it has been "previously dedicated."
  - 2. The exact location, dimensions, description, name and purpose of all proposed streets, alleys, drainage structures, parks, other public areas, reservations, easement or other rights-of-way, residential lots, and other sites, with accurate dimensions, bearing or deflecting angles. These areas dedicated for public use shall state that they are "herein dedicated" within the area affected.

B. The final plat shall also include the following:

1. Owner's acknowledgment:

"State of Texas County of \_\_\_\_\_.

The owner of land shown on this plat and whose name is subscribed hereto, and in person or through a duly authorized agent hereby dedicates to the use of the public forever all streets, alleys, parks, watercourses, drains, easements and public places thereon shown for the purpose and consideration therein expressed and further warrants that he has lawful authority to make such dedications.

\_\_\_\_\_  
Owner

State of Texas  
County of \_\_\_\_\_

Before me, the undersigned authority, on this day personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed and in the capacity therein stated.

Given under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Notary Public, \_\_\_\_\_ County, Texas."

## 2. Certificate by Director of Public Works:

"The Director of Public Works of the City of Wichita Falls, Texas, hereby certifies that this subdivision plat conforms to all requirements of the subdivision regulations as to which his approval is required.

---

Director of Public Works"

## 3. Approval of the Commission of the city:

"This plat has been submitted to and considered by the Planning and Zoning Commission of the City of Wichita Falls, Texas, and is hereby approved.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

By: \_\_\_\_\_  
Chairman

By: \_\_\_\_\_  
Secretary"

OR

In the case of a minor plat, approval by the Director of Community Development:

"This plat has been submitted to and considered by the City of Wichita Falls, Texas, under the terms and conditions of a minor plat and is hereby approved.

Dated this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_

By: \_\_\_\_\_  
Director of Community Development"

4. Surveyor's certification:

"I hereby certify that this plat has been prepared from an actual and accurate field survey of the land under my personal supervision on \_\_\_\_\_ (date) \_\_\_\_\_; and that all information shown is true and correct; and that all monuments shown thereon were properly placed under my personal supervision, in accordance with the subdivision regulations of the City of Wichita Falls, Texas.

---

Surveyor"

5. A certificate from the City tax collector and from the proper official of all other taxing authorities within whose jurisdiction the proposed subdivision lies to the effect that all ad valorem taxes have been paid on the land included within the subdivision and that there are no recorded liens by any taxing authority.

6. Where any plat wholly or in part lies outside of the corporate limits of the City, and within the extraterritorial jurisdiction as defined by state law, a legible statement shall appear on the plat as follows:

"The area indicated on this plat as outside of the City limits of Wichita Falls on the date of approval of this plat is within the extraterritorial jurisdiction of the City of Wichita Falls and subject to annexation".

#### 5.4 Processing of Final Plat

A. No final plat will be considered unless a preliminary plat has been approved by the Commission. If circumstances prevail in which a single unplatted parcel may be platted into lots in only one obvious manner, no preliminary plat will be necessary. The planning department shall determine the necessity of preliminary plats in such cases.

The Director of Community Development may approve minor plats involving four (4) or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of municipal facilities. The Director of Community Development shall not disapprove such plat but refer any plat that he refuses to approve to the Commission.

B. A final plat of an approved preliminary plat or a portion thereof shall be submitted to the Commission within two years of the date of approval of preliminary plat, otherwise the approval of the Commission shall become null and void.

- C. With the exception of minor situations or drafting errors authorized by the joint approval by the Department of Community Development and Department of Public Works, no changes, erasures, modifications or revisions shall be made in any final plat of a subdivision after approval has been given by the Commission and endorsed on the plat in writing, unless said change, revision or modification is first submitted to and approved by the Commission.
- D. The Director of Public Works shall certify by his signature on the final plat that all improvements required under this ordinance have been completed prior to submittal of the final plat, or that one of the following types of guarantees has been furnished. If such a guarantee is furnished, it shall provide that all improvements shall be completed within twelve (12) months, unless an extension of time is granted in writing by the Director of Public Works for good cause. Such guarantees are as follows:
1. The subdivider may furnish an approved surety, payable to the City or governmental unit authorized to accept surety if not the City, in an amount sufficient to cover the entire cost of such improvements as required herein, as estimated by the subdivider and approved by the Department of Public Works of the City or a person authorized by the governmental unit if not the City.
  2. The subdivider may deposit cash, or other instrument readily convertible into cash at face value, either with the Department of Public Works or appropriate governmental unit if not the City, or in escrow with a bank. The use of any instrument other than cash, and, in the case of an escrow account, the bank with which the funds are to be deposited, shall be subject to the approval by the Department of Public Works or the appropriate governmental unit if not the City. If an instrument readily convertible into cash is deposited with the Department of Public Works or the appropriate governmental unit if not the City, it may be reduced to cash at the discretion of the Department of Public Works or the appropriate governmental unit if not the City. The amount of the deposit shall be sufficient to cover the entire cost of the required improvements, as estimated by the subdivider and approved by the Department of Public Works or the appropriate governmental unit if not the City. In the case of an escrow account, the subdivider shall file an agreement between himself and the bank guaranteeing that such funds shall be held in trust until released by the Department of Public Works or the appropriate governmental unit if not the City, and may not be used nor pledged by the subdivider as security in any other matter during that period; that in case of failure of the subdivider to complete said improvements within the time specified, then the bank shall immediately make the funds in such account

available to the Department of Public Works or the appropriate governmental unit if not the City for use in the completion of such improvements. Provided, however, periodic payments may be made from the cash deposited with the Department of Public Works or the appropriate governmental unit if not the City or from the escrow account for progressive payments of construction costs of the required improvements, which payments shall be based upon progress work estimates prepared by the subdivider's engineer and approved by the Department of Public Works or the appropriate governmental unit if not the City.

3. The subdivider may provide, from a bank or other reputable financial institution approved by the Department of Public Works or the appropriate governmental unit if not the City, a letter of credit, which is approved by the City Attorney. Such letter of credit shall state that the creditor guarantees funds in an amount equal to the cost of constructing such improvements, as estimated by the subdivider and approved by the Department of Public Works or the appropriate governmental unit if not the City. In case of failure on the part of the subdivider to complete such improvements within the specified time, the creditor shall pay to the Department of Public Works or the appropriate governmental unit if not the City immediately, and without further action, such funds as are necessary to complete such improvements, up to the limit of credit stated in the letter; such letter of credit may not be withdrawn, or reduced in amount, until released by the by the Department of Public Works or the appropriate governmental unit if not the City.

If one of such guarantees is furnished to the Department of Public Works or the appropriate governmental unit if not the City by the subdivider, it shall be filed with the Department of Public Works or the appropriate governmental unit if not the City.

4. The subdivider, at his option, may elect to, during the course of improvements, to deposit cash, or other instrument into cash at face value, either with the Department of Public Works or the appropriate governmental unit if not the City or in escrow with a bank for the balance of improvements yet to be installed. The amount shall be sufficient to cover the cost of the remainder of the improvements. The estimate shall be provided by the subdivider and approved by the Department of Public Works or the appropriate governmental unit if not the City.
- E. A final plat shall become void if there are discovered to be constraints to the development as proposed on the plat. Should such constraints or obstacles be found, the Planning Division and/or Department of Public

Works shall require the submission of an amended plat that recognizes, mitigates or otherwise allows for the effects of the constraint or obstacle as approved by the Planning Division and/or Department of Public Works. A nonconforming condition shall also be considered a constraint or obstacle.

**SEC. 6. STANDARDS, SPECIFICATIONS AND CONDITIONS.****6.1 General**

- A. Staking for the proposed street construction will be provided by a competent engineer in the employment of the subdivider.
- B. Upon completion of a street, drainage, water and/or sewer improvement as may be required, the Department of Public Works or the appropriate governmental unit if not the City will inspect the finished work and provide the developer with a letter of approval.
- C. No preliminary or final plat shall be approved by the Commission and no completed site improvements shall be accepted by the Department of Public Works or the appropriate governmental unit if not the City unless they conform to requirements herein.
- D. No final inspection shall be made or Certificate of Occupancy issued on a project unless all requirements under this regulation are installed and approved; and as defined by or under the requirements of the building permit and/or approved site plan unless approved or conditionally approved by the Department of Community Development. The Department of Community Development may require guarantees or commitments that development and/or improvements will occur within a specific time.
- E. Conformity with Comprehensive Plan. The subdivision shall conform to the Comprehensive Plan and the parts thereof, as applicable.
- F. Provisions for future subdivisions. If a tract is subdivided into parcels larger than ordinary building lots, such parcels shall be arranged to allow the opening of future streets and logical future subdivisions.
- G. Reserve strips prohibited. There shall be no reserve strips controlling access to land dedicated or intended to be dedicated to public use.
- H. Suitable building sites. Every lot must contain a suitable building site unless otherwise required by the City that a lot be identified for reference and legal description where such is open space, easement, or other such situation as required by the Planning Division, Department of Public Works, Department of Parks and Recreation or other administrative department of the City as applicable.
- I. Suitability of land use. Land shall be suited to the purpose for which it is to be used.



- J. Level of development requirements. Should a development be within two development levels, the most restrictive standards shall apply.

## 6.2 Streets

- A. General requirements for streets.

1. Street layout. Adequate streets shall be provided by the subdivider, the arrangement, character, extent, width, grade and location of which shall conform to the most recent Thoroughfare Plan or as required herein and shall be considered in their relation to existing and planned streets, to topographical conditions, to safety and convenience, and their appropriate relation to the proposed uses of the land to be served by such streets.
2. Relation to adjoining street system. Where necessary to the neighborhood pattern, existing principal streets in adjoining areas shall be continued and shall be at least as wide as such existing streets and in alignment therewith.
3. Projection of streets. Where adjoining areas are not subdivided, the arrangement of streets in the subdivision shall make provision for the proper projection of streets into such unsubdivided areas.

Streets projecting into unsubdivided areas shall be provided with a cul-de-sac in accordance with standards herein. The Department of Public Works may consider and authorize a temporary cul-de-sac. Such temporary cul-de-sac shall be constructed in accordance with City standards and shown on the preliminary and final plat or by separate instrument. The length of a temporary cul-de-sac shall be no longer than allowed herein. The Director of Public Works may approve a waiver of the requirement for a temporary cul-de-sac.

4. Street jogs. Street jogs, with centerline offsets of less than one hundred twenty-five (125) feet shall not be allowed.
5. Half streets. No new half streets shall be platted, except new adjacent arterial or collector streets.
6. Street intersections. Street intersections shall be as nearly at right angles as practicable, giving due regard to terrain and topography.
7. Cul-de-sacs. Cul-de-sacs shall not exceed six hundred (600) feet in length in residential areas and nine hundred (900) feet in length

in commercial and industrial areas and shall have a turn around right-of-way of not less than one hundred (100) feet in diameter in residential areas and not less than two hundred (200) feet in diameter in commercial and industrial areas unless otherwise allowed herein.

The Planning Division, Department of Public Works and Fire Department shall evaluate the length and turn-around for each cul-de-sac by considering emergency access, density of residential, intensity of commercial, topography, sight distance, alternative access and other such issues. The above City departments shall have sole discretion to modify requirements herein in the interest of public health, safety and general welfare of the area and adjacent development and future development.

8. Access to arterial streets prohibited. Unless approved by the Directors of Community Development and Public Works, no residential subdivision shall be platted so that a residence fronts on or has direct access to an arterial street, highway, highway frontage road or major collector-classed street. The Directors may use the services of the Metropolitan Planning Organization as necessary.
9. Main driveway opening on street. Each residential lot shall have the main driveway to the garage, carport, or off-street parking area opening on a local residential or collector street, except where the subdivision is platted to allow main driveway opening on the alley as provided herein.
10. Streets on Thoroughfare Plan. Where a subdivision embraces a street, as shown on the most recent Thoroughfare Plan, such street shall be platted in the location and of the right-of-way width indicated by the Thoroughfare Plan. Where a subdivision embraces an existing street or road not indicated on the Thoroughfare Plan, such street shall be platted in the right-of-way width indicated herein.
11. Local residential streets. Local residential streets shall be laid out as to discourage their use by through traffic where such traffic does not have its origin or destination within the residential area. This shall not include proposals or needs to connect adjoining residential subdivisions.
12. New adjacent arterial streets. The subdivider shall dedicate right-of-way sufficient in width to meet the requirements of the Thoroughfare Plan or as required herein.

13. Adjacent existing streets or half streets. Where the proposed subdivision abuts upon an existing dedicated street or half street that does not conform to the Thoroughfare Plan or requirements herein, the subdivider shall dedicate right-of-way sufficient to make the full right-of-way width conform to the requirements of the most recent Thoroughfare Plan or as required herein.
14. Single lot subdivision. All required right-of-way dedication shall also apply to plats wherein a parcel is platted or replatted as a single lot and as required herein.
15. Street names. New streets shall be named in accordance with provisions of the Code of Ordinances and approved by the Planning Division.

B. Design standards for streets.

1. Curb and gutter in accordance with City standards shall be required on all streets within Level One unless exempted under Chapter 94-100 of this Code. The Department of Public Works shall evaluate and may amend the need for curb and gutters by evaluating the ownership of the roadway, plans for widening the roadway or other situations that may exist where the installation of curbs and gutters does not serve the public purpose.
2. Curb and gutter may not be required by the Department of Public Works within a Level Two area. The creation of a multiple-lot subdivision or the creation of a new street may require curb and gutters.
3. Curbs and gutters shall be installed by the subdivider on both sides of all interior streets and on the subdivision side of all streets forming part of the boundary of the subdivision. An exception to boundary street dedication and paving may exist where the other side of the street is developed and/or improved and shall consider alignments and other identifiable factors, under which case there may be required a dedication and paving on one or both sides of the street.. Curbs and gutters shall be constructed to City specifications. All streets shall be paved by subdivider to City specifications.
4. Curb cut and driveway widths shall be in accordance with Appendix B of the Code of Ordinances. Upon approval by an authorized official of the Texas Department of Transportation, a 45-foot wide

driveway width may be allowed on state-designated highways and frontage roads.

5. Right-of-way and pavement widths shall be in accordance with the following:
  - a. Right-of-way and paving width shall be in accordance with the Thoroughfare Plan.
  - b. Unless otherwise required or approved by the Department of Public Works, existing or proposed streets or roads within Level One and Level Two areas not addressed in the Thoroughfare Plan or under other plans, shall be provided meeting City standards. If it is a state road or highway, the right-of-way and paving requirements shall be in accordance with state specifications, or where no standards or requirements exists, the minimum right-of-way requirement shall be the greater of 60 feet or as required by the county. Additional right-of-way and paving width may be required as determined by long range plans, density or intensity of development, historical traffic conditions and counts, and other appropriate factors.
  - c. The minimum right-of-way width and paving width, if the street is not indicated on the Thoroughfare Plan, shall be as required on the Thoroughfare Plan for the type and function of the street proposed unless additional width is required along state or county roads.
  - d. The Planning Division and Department of Public Works shall be responsible for approving the street classification and/or type by considering the type, nature, density or intensity of proposed or future land uses related to or affecting the street. Local streets that serve, propose to serve, or may serve 150 or more dwellings shall be required to be upgraded to a minor collector under standards of the Thoroughfare Plan. Density calculations for local streets in adjacent or neighboring residentially zoned areas shall be based on 3.5 dwellings units per acre. In evaluating the street classification, consideration shall be given to other access.

C. Access Management

1. Curb cuts on state-designated or state-controlled streets, roads or highways shall receive first approval by the Texas Department of

Transportation. Additional approval by the Planning Division and/or Department of Public Works will consider sight visibility in relation to the posted speed of the road, street or highway, topography, roadway design and distance between curb cuts in accordance with accepted standards.

2. The distance between curb cuts on arterial streets and state-owned streets and roads shall be governed by the nature and type of land use, existing or potential for conflicts, speed and condition of the roadway, location and spacing of traffic signals, the ability for alternative access, the intended function of the roadway, and existing land uses.
3. As feasibly possible, marginal access streets or access easements shall be used for all commercial development to allow access to all properties or uses without the need to access these individually from a public street.
4. Unless otherwise approved by the Department of Public Works, lay-down curbs shall not be allowed for access to individual lots or uses.
5. The City, county and/or State may require the closing or partial closing of any curb cut or drive opening where such creates or has the potential to create a hazardous condition. Should the opening be closed, the property owner shall provide a curb and remove the drive approach. An alternative to the removal of a drive approach may be considered by the installation of an approved barricade, generally only where affected roads or streets carry 300 ADT or less.
6. Chapter 6200, Exhibit B of Appendix B, Zoning Ordinance of the Code of Ordinances, shall be considered as a guideline used to calculate the distance requirements between curb cuts and intersections. The Planning Division and Department of Public Works shall have final authority to modify conditions therein in the interest of public safety and as intended herein.
7. Chapter 102-40, Visibility Sight Triangles, of the Code of Ordinances shall be considered a guide to sight visibility requirements. The Planning Division and Department of Public Works may amend requirements therein in the interest of public safety, and in consideration with the above situations, and may require the installation of acceleration/deceleration lanes, modifications or installation of medians and turning bays, and other situation that will enhance public safety.

### 6.3 Easements

- A. A developer or property owner may provide or be required to provide utility easements in accordance with the following requirements:
  - 1. Utility easements shall be provided at the rear of all lots or as required by the Department of Public Works or utility company.
  - 2. Unless otherwise required, utility easements shall be a minimum of fifteen (15) feet in width, centered on a common property line of two (2) abutting lots and shall be continuous for the entire length of the block or as required by the Department of Public Works or utility company.
  - 3. Utility easements shall be approximately parallel to the frontage of the street or as required by the Department of Public Works or utility company.
  - 4. Structures, as determined by the Planning Division and/or Department of Public Works, shall not be placed within easements, except however, common fences may be placed along property lines.
- B. Maintenance of easements shall be the responsibility of the owner of the land upon which it is located. It shall be the duty of the property owner to keep the area across, over or under this easement clear of any structure, debris, vegetation, trees, shrubs, or landscaping whatsoever except that lawn grass which shall be regularly mowed and controlled may be grown thereon.
- C. Normal curb and gutter shall be required where utility easements intersect streets.
- D. Where utility easements are not themselves straight within each block, or if the same do not connect on a straight course with the utility easements of adjoining blocks, then an additional easement shall be provided for the placing of guy wires on lot division lines in order to support poles set on curving or deviating rights-of-way of alleys.
- E. The property owner shall be required to identify buried, aerial or above-ground pipelines or other buried, aerial or above-ground utility, and if such is not within an easement recorded for record shall contact the utility owner and dedicate or have dedicated such an easement and recorded and filed on a plat or separate instrument as required by the Department of Public Works or the appropriate governmental unit if not the City.

## F. Access Easements

Access easements, where allowed, shall be in accordance with the following:

### 1. Residential:

Access easements, where permitted, serving single-family or duplex dwellings, shall have a minimum width of 20 feet as measured from property line(s), and a minimum unobstructed paving width of 9 feet.

### 2. Commercial:

Access easements, where permitted, shall have a minimum, unobstructed paved width of 12 feet. Additional easement width may be necessary for utilities, drainage, etc.

If more than one commercial lot or use is being accessed, there shall be no use of an access easement to provide primary access. The minimum width shall be 60 feet as measured from property line(s) with a minimum unobstructed paving width of 36 feet, or as required by the City. The Planning Division may consider or require an exception to this provision based on the type of development proposed.

### 3. All access easements shall be approved by the Planning Division and/or Department of Public Works.

### 4. All drive surfaces shall be hard-surfaced with HMAC or concrete suitable for continued use by vehicles of the type intended. The Department of Public Works may require details of paving sections, and modifications thereof, prior to plan or permit approval to ensure function and longevity for the intended use. Proposed alternatives to address the intent of this provision shall be considered on a case-by-case basis.

### 5. No access easement shall provide ingress or egress to or from an arterial street or highway unless approved by the Planning Division and/or Department of Public Works as part of a nonresidential development where the easement is intended to serve multiple land uses.

### 6. Access easements shall be maintained by the property owner(s). Should the access easement fall into disrepair and pose a hazard

or undesirable situation, as determined by the Planning Division and/or Department of Public Works, the responsible property owner(s) shall be provided with written notice that such shall be repaired within a time period agreed to by the governmental unit. Failure to repair shall subject all affected property owners to provisions of Section 11.

7. All required paved driving surfaces shall be kept clear of all obstacles including, but not limited to dumpsters, utility poles, personal property and other such situations.

#### G. Other Easements

1. Should through a plan for a Planned Unit Development, under Appendix B of the Code of Ordinances or described under other plans there was defined a trail system, paths, ponds, lakes, drainage easements or other such easement or open space not directly related to a physical utility, there shall be dedicated such on a final plat or separate instrument.
2. Should paving, grading, landscaping or other improvement be required with an easement or open space, such shall be installed at time of platting or the amount placed in escrow with the Department of Public Works or the appropriate governmental unit if not the City to cover all costs according to provisions herein.
3. Responsibility for maintenance of the easement(s) or open space shall be the responsibility of the property owner unless otherwise accepted by the Department of Public Works or the appropriate governmental unit if not the City.

#### H. Drainage Easements.

1. Drainage Easements shall be provided where required by the Department of Public Works.
2. The width and location of such drainage easements shall be in accordance with the current City of Wichita Falls Stormwater Design Criteria.
3. No structures shall be placed in a drainage easement. These include but are not limited to, fences, portable buildings, permanent structures, etc. In addition no vegetation shall be installed in this easement other than what has been approved by the Department of Public Works.



4. Encroachments existing on April 1, 2008 shall be allowed to remain unless the Director of Public Works determines the encroachment will constrict the flow of storm water.
5. All stormwater detention facilities shall require the dedication of a drainage easement in accordance with Chapter 106 Article VIII Stormwater Management of the City of Wichita falls Code of Ordinances.
6. Drainage easements shall be solely for the conveyance of stormwater and shall not be combined with utility easements and/or access easements without the approval of the Director of Public Works.
7. Maintenance of all drainage easements with the exception of stormwater detention facilities for non-residential properties shall be the responsibility of the Department of Public Works.

#### **6.4 Oil and Gas Wells**

For the purpose of this regulation, the term “plugged” shall refer to cementing a well to remove the well from production in accordance with standards of the state railroad commission.

It shall be unlawful for any person acting either for himself or acting as agent, employee, independent contractor, or servant for any person to drill any well, assist in any way in the site preparation, re-working, fracturing or operation of any such well or to conduct any activity related to the production of oil or gas without first obtaining a permit issued by the director of public works in accordance with this Section. Such activities include, but are not limited to seismic exploration, site preparation, re-working, drilling, fracturing, operation, construction of rigs or tank batteries, fracturing and pressurizing of wells. A permit shall not be required for seismic exploration unless such survey activities will be conducted on City property or public utility easement. Explosives shall not be used within the City.

A permit shall authorize seismic exploration, site preparation, re-working, drilling, fracturing, operation, construction of rigs or tank batteries, and well pressurization for a period of one year after issuance. If a well is completed as a result of permitted drilling activity, the permit shall authorize continued operation of the well.

A. *Permit application and contents.* The application for the permit, required by this chapter, shall include the following information:

1. A copy of the application to drill which has been filed with the Texas Railroad Commission and copies addressing the requirements of the Texas Railroad Commission for which is required to be met based on the application, together with bonding requirements, if required.
2. The name, address, and phone number of the operator of the lease and property owner, with the name of the contact person for the operator.
3. A description of the lease or the lands involved in the exploration, drilling or maintenance, and the length of time that surface operations are expected to occur.
4. A plat showing the location of the well, the ownership of the land, property lines, structures, and offset operators or landowners.
5. The name and address of the drilling contractor.
6. A site plan accurately depicting the proposed site and the location, distance to and nature of adjacent land uses.
7. A statement warning of possible hazardous formation conditions that may be encountered during or as a result of the proposed drilling or exploration operation or maintenance of an existing well site.
8. A copy of the operator's spill prevention plan
9. The fee for a permit in the amount of \$500.00 or as established in the Fees chapter of this code.
10. A bond or letter of credit approved for form by the City Attorney in the amount of \$25,000 along with the permit application for the initial permit applied for by an operator. The bond shall be executed by the Operator, as principal, and a corporate surety on the list of authorized insurance companies published by the State Board of Insurance of the State of Texas, as surety, in a form approved by the City Attorney and with the bond in favor of the City conditioned that the Operator will comply with all of the terms, conditions and requirements of this Chapter and any permit issued pursuant hereto, and further conditioned that the Operator will repair any damages to City roads, streets, highways, or other City property, as determined by the Director of Public Works of the City,

caused by the equipment and vehicles used by the permittee in going to and from the drill site with such repairs to be in compliance with specifications therefore prepared and provided to the operator by the Director of Public Works. The security shall remain effective until the operations on the drill site are terminated.

11. A certificate of insurance showing the insurance required in this Section.

B. *Insurance.* No well shall be drilled or any maintenance or exploration conducted unless the drilling firm, lease owner and/or contractor at all times carries minimum insurance coverage for bodily injury of \$500,000 for each occurrence and \$1,000,000 aggregate; and for the cost of controlling a well that is out of control, re-drilling or restoration expenses, seepage and pollution damage as first party recovery for the Operator and related expenses, including, but not limited to, evacuation of residents, in the amount of at least \$5,000,000 per occurrence. The lease owner shall at all times carry this minimum limit of insurance until such time that the well is out of production and all appurtenances removed from the site. The insurance under all situations and at all times shall list the City of Wichita Falls.

C. *Location, maintenance and fencing of tanks and tank batteries.*

1. The oil or fuel storage tank or tank battery shall be erected in conformance with the Spill Prevention Control and Countermeasure Plan published by the U.S. Environmental Protection Agency.
2. The oil or fuel storage tank or tank battery shall be completely enclosed by:
  - a. a minimum 6-foot tall all metal chain-link fence with 2"-maximum mesh interwoven with opaque slats, topped by at least 3 strands of barbed wire,
  - b. a solid minimum 8-foot tall masonry wall, or
  - c. other fencing material approved by the Director of Public Works.
3. In no event shall a tank or tank battery be located nearer than 150 feet from any residence, or dwelling, unless the tank or tank battery existed prior to the residence or dwelling, or nearer than 30 feet from any combustible structure.
4. Oil and fuel storage tanks or tank batteries shall be kept well painted and in good repair.

5. If the well(s) associated with an oil storage tank or tank battery is/are plugged, or if the storage tank or tank battery is no longer in use, the storage tank or tank battery and associated pipelines shall be removed and the land restored. This provision may include all associated appurtenances with the wells and tank or tank batteries. This removal shall occur within six months unless documentation can be provided that the well and tank or tank battery will be used within the next two years. For the purpose of this provision, the term no longer in use shall mean that the tank or tank battery, while it or they may contain some residue or fuel, has not been pumped into or out of within the past 6 months. The Director of Public Works may waive this requirement if the operator requests such waiver in writing, and the Director determines that failure to pump is due to a reason other than the tank(s) no longer being in use.
6. Other oil or fuel storage tanks that receive products from transmission or distribution lines that are not pumped into or pumped out of for a period of six months shall be considered abandoned and/or unused. The leaseholder shall disassemble and completely remove such tanks from the site unless it is shown that there are plans to reuse the storage tanks within the next two years.
7. Within 6 months after removal of any oil storage tanks or tank batteries, the permittee shall restore the property to its original state insofar as possible, to include removal and/or restoration of any unremediated soil.

D. *Pumps to be electrically powered.* No pumping unit used for the purpose of lifting oil shall be powered with any power other than electricity. If electrical power lines are proposed to be buried or are buried, a private easement shall be created and the Department of Public Works shall note the location of said easement and/or its encroachment into or within a public easement. Such easement shall become a matter of public record by the filing of a plat or separate instrument.

E. *Pumping Units.*

1. All surface equipment shall be kept clean, painted, in good repair, and properly lubricated in order that they will operate quietly. The noise produced by wells jacks or units on a producing well shall not exceed 50 decibels at any boundary of the parcel on which the well is located.
2. All pumping units, compressors, and other powered equipment shall be completely enclosed by:

- a. a minimum 6-foot tall all metal chain-link fence with 2'-maximum mesh interwoven with opaque slats, topped by at least 3 strands of barbed wire.
- b. a solid minimum 8-foot tall masonry wall, or
- c. other fencing material approved by the Director of Public Works.

F. *Flow lines.*

1. All flow lines and/or water and/or oil or gas lines shall be buried at least one (1) foot under the ground unless permission is obtained from the surface owner. The Planning Division and/or Department of Public Works may require that flow lines and transmission lines be buried at a greater depth depending upon adjacent land uses and proposed streets, roads and highways.
2. All flow lines shall be shown on a plat or separate instrument and filed for public record. Upon the removal of the associated tank batteries and/or the plugging of wells associated with such pipelines, the pipelines shall be removed. The Department of Public Works may consider an alternative to the removal of the pipelines if the lines are flushed to remove any potential contaminants. Such exception shall apply to only those situations where removal is not technically feasible.
3. The Department of Public Works shall have sole authority to regulate the location and installation of such lines, which will also incorporate standards by the appropriate government agency.

G. *Waste oil or water to be cleaned up.* Any waste oil or water in, on, or around any premises within the City or the extraterritorial jurisdiction shall be immediately cleaned up and the ground shall be cleaned of any oil-bearing dirt.

H. *Drilling operations generally.* The owner, leaseholder, property owner or other who is responsible for drilling of a well or well site shall proceed with the drilling operations with the highest degree of care so as not to injure adjoining property or persons in any manner by:

1. Keeping the premises suitably fenced or guarded 24 hours a day in such manner as to avoid trespassing during the drilling and exploratory operations;
2. Removing all drilling mud upon the completion of such drilling operations;

3. Immediately clearing the grounds around the well and the slush pits of all drilling mud and/or all oil, salt water or water. The area shall be made to conform in appearance to the lands in the neighborhood wherein such drilling, exploration or maintenance operations are so conducted. All pits must be steel or lined with a minimum 6-mil impermeable liner. All pits and contents shall be removed from the premises and drill site within 30 days after completion of the well.
4. Prior to the commencement of any drilling operations, installing private roads used for access to the drill site and the operation site which are at least 10-feet wide, have an overhead clearance of at least 14 feet and are surfaced with asphalt, crushed rock, or gravel, and maintained to prevent dust and mud in accordance with the requirements of the director of public works. The requirements governing surfacing of private roads may be altered at the discretion of the director of public works after consideration of all circumstances, including, but not limited to, the following: (1) distances from public streets and highways; (2) distances from adjoining and nearby property owners; (3) the purpose for which the property of such owners is or may be used; (4) topographical features; (5) nature of the soil; (6) exposure to wind, and (7) preference of the surface owner.
5. It shall be unlawful to create sound during drilling operations that exceeds:
  - a. 60 decibels during daytime hours between 7:00 a.m. and 7:00 p.m., measured at any occupied structure on a parcel other than the parcel on which the oil well is located.
  - b. 50 decibels during nighttime hours between 7:00 p.m. and 7:00 a.m., measured at any occupied structure on a parcel other than the parcel on which the oil well is located.

#### *I. Spacing.*

1. It shall be unlawful to drill any well, the center of which, at the surface of the ground, is located:
  - a. within 25 feet of any storage tank or source of ignition;
  - b. within 100 feet of any building accessory to the well, public street, road, highway, right of way or property line.

- c. within 300 feet of any water well used as a potential source of drinking water;
  - d. within 400 feet of any commercial or industrial building; or
  - e. within 600 feet of any residence.
- 2. The minimum distances described in subsection 1.d. and 1.e. may be reduced by:
  - a. a waiver granted by the City Council; or
  - b. written notarized waivers granted by all owners of all buildings within the radius being protected from drilling. All waivers must identify the property address, block and lot number, subdivision name (if applicable), and plat volume and page. Such waivers must be filed, at the expense of the Operator, in the Wichita County records prior to the issuance of the permit.

J. *Fracturing Operations.* It shall be unlawful for any person to conduct fracturing operations on a well during the nighttime hours between 7:00 p.m. and 7:00 a.m. It shall further be unlawful for any person to create sound during such fracturing operations that is greater than 60 decibels, measured at any occupied off-site structure, unless a higher maximum decibel level has been provided by the director of public works. If a higher decibel level has been provided by the director of public works, it shall be unlawful for any person to:

- 1. create sound during fracturing operations that exceeds the decibel level provided by the director of public works, or
- 2. conduct fracturing operations in a manner that fails to comply with the special conditions established by the director of public works.

K. *Easements.* Wells shall be serviced from an existing public street or a dedicated access easement.

- 1. A 25-foot access easement allowing entry of City personnel and other public safety personnel shall be provided from a street to the wellhead, tank, tank battery, flare and mud pits or any other areas where machinery is located.
- 2. The operator shall pay the City for any damage it causes to City property within 30 days after notification of such damage by the Director of Public Works.

3. Once a well is plugged to remove from production and the site is restored as required herein, the easement may be removed.

L. *Floodplains.* The floor of any drilling rig and the top of any well head shall be placed at least one foot above the “base flood elevation” in any area of “Area of special flood hazard” as such terms are defined in Section 54-26 of this Code. The base of any pumping units and oil storage tanks must be placed above the “base flood elevation”.

M. *Enforcement* Violation of the terms of this section shall be punishable by a fine of up to \$2,000 per day, cancellation or suspension of the permit by the director of public works, or injunction. Prior to cancellation or suspension of a permit, the director of public works shall give the permit holder at least 10 days written notice, posted on the drill site, an opportunity for hearing, and at least one opportunity to cure the failure of at least 10 days following the hearing.

## 6.5 Water

- A. All subdivisions shall be provided by the subdivider with water supply and water distribution systems approved by the Department of Public Works and/or Health Department.
- B. Fire hydrants, in accordance with City standards shall be installed as part of the water distribution system by the subdivider so that every lot is within five hundred (500) feet of a fire hydrant or as approved by the Texas Insurance Commission.
- C. Extension of water lines shall be in accordance with Chapter 106, Article VI, Extensions of the Code of Ordinances.

## 6.6 Sewer

- A. All subdivisions shall be provided by the subdivider with an approved sewage disposal system.
- B. Connection with the sanitary sewer system shall be required except where the Department of Public Works determines that such connection will require unreasonable expenditure when compared with other methods of sewage disposal. Where on-site sewer systems are installed, the design for the system will be in accordance with requirements of the Texas Commission on Environmental Quality (TCEQ). If the subdivider proposes to install a sanitary sewer disposal system, the plans for such a system must be approved in accordance with standards and requirements



of the Health Department and TCEQ prior to approval of the final plat by the Commission. Unless otherwise advised, the City of Wichita Falls/Wichita County Health Department is the authorized TCEQ representative.

- C. Extension of sanitary sewer lines shall be in accordance with Chapter 106, Article VI. Extensions of the Code of Ordinances.

## **6.7 Utility Lines**

- A. All utility lines that pass under a street or alley shall be installed before the street or alley is paved. When it is necessary that utility lines pass under pavement, they shall be installed to a point at least three (3) feet beyond the edge of the pavement. An exception to this requirement exists where underground construction technology (e.g. boring) is used at the utility company's or contractor's option. All necessary utilities shall be installed before building permits and/or certificates of occupancy are issued for work within the subdivision.
- B. All telephone, cable television and electrical utility lateral and service lines shall be placed underground throughout new subdivisions for which final plats are approved subsequent to the effective date of this Ordinance, subject to the following conditions:
  - 1. All electrical transmission lines, meaning those electrical lines operated at nominal voltages of 60,000 volts or higher, may be placed overhead.
  - 2. Any electrical feeder lines, meaning those electrical lines that emanate from substations to distribute power throughout an area, may be placed overhead.
  - 3. Where electrical service is to be placed underground, electrical service for street or site lighting shall also be placed underground except for the lighting standards.
  - 4. Temporary electrical service during construction may be provided by overhead utility lines and facilities prior to activation of the underground service. Following activation of the underground permanent service, the temporary overhead electrical service shall be removed as soon as possible.
  - 5. The electrical utility company may plan and construct overhead lines on perimeters of subdivisions or property. Telephone and cable television lines may be constructed overhead where overhead electric utility lines are permitted.

6. Each of the utility companies shall be responsible for developing administrative policies and cost reimbursement procedures for the installation and extension of their underground utilities. Nothing herein shall prohibit or restrict any utility company from recovering the difference in cost of overhead facilities and underground utilities from the owner or developer in accordance with the provisions of such utility's approved tariff. No utility company shall be required to begin construction of underground facilities unless and until the owner or developer of the subdivision has made arrangements satisfactory to the specific utility company for the payment of such difference between the cost of overhead facilities and underground facilities. No plat shall be approved without a certification by all electric, telephone and cable television companies that such satisfactory arrangements have been made being affixed to the plat. The City of Wichita Falls shall not be responsible for any portion of such cost unless the City of Wichita Falls determines that the owner, developer or consumer should not pay such difference in cost and the City of Wichita Falls refuses to grant an exception allowing overhead construction.
7. All electrical, cable television and telephone support equipment (transformers, amplifiers, switching devices, etc.) necessary for underground installation shall be pad mounted or placed underground and the difference in cost of such facilities shall be paid to the installing utility company in accordance with provisions established under paragraph 6 above.
8. Nothing herein shall be construed to require a utility to install underground facilities or any facilities other than standard overhead facilities, unless the increased cost associated with the underground or other non-standard facilities has been paid to the utility by the developer or the City prior to construction.
9. Nothing contained herein shall be construed to require any existing overhead facilities to be placed underground or to prohibit the upgrading, reconstruction, relocation, or reconductoring of any existing overhead facilities with overhead construction.
10. Nothing contained herein shall be construed to alter the intent of any utility Franchise Agreement Ordinance in effect on the effective date of this Ordinance.

## **6.8 Surveying Standards**

All surveys performed in connection with these regulations shall be performed by a registered professional surveyor in good standing licensed by the State of

Texas. All surveys shall meet the minimum standards of professional practice promulgated by the Texas Board of Professional Land Surveying.

## **6.9 Drainage**

- A. Where a subdivision is traversed by a watercourse, drainage way, natural channel or stream, there shall be provided an easement or right-of-way conforming substantially to the limit of such watercourse, plus additional width to accommodate future needs as determined by the Department of Public Works.
- B. Drainage facilities shall be provided and constructed by the subdivider in accordance with Chapter 106, Article VIII. Storm water Management of the Code of Ordinances, and as required by the Department of Public Works.

## **6.10 Lots and Setbacks**

Setbacks shown herein shall apply within the City, and within its extraterritorial jurisdiction in absence of county requirements. Where such county requirements exist outside the City, the greater requirements between the City, what is required herein, and county shall apply.

- A. All lots shall have access to, and front on a public street unless other wise approved as required herein. Lots designated for storm water detention shall not be required to front on a public street, but shall be accessed by approved easements. Once so shown and described on a final plat, such lot shall not thereafter be used for other than as intended unless approved by the Planning Division and Department of Public Works. Lots separated from a street right-of-way by strip of land owned by:
  - 1. a utility, used for the sole purpose of providing utilities,
  - 2. a pipeline company, used for the sole purpose of transporting liquids, or,
  - 3. a railroad company, used for the sole purpose of transport, shall not be required to front on a public street, provided that a permanent easement is obtained from the aforesaid utility company, pipeline company or railroad company, providing for vehicular access between the lots and the public street.
- B. Unless otherwise required herein, or allowed under Appendix B of the Code of Ordinances, minimum width at the building limit line of 50 feet as measured along the building limit line or within 25 feet of the right-of-way line, whichever is closer.

- C. The area of a lot for the purposes of compliance with this regulation shall be the net horizontal area within the lot boundary lines and shall exclude any street or alley rights-of-way, but shall include easements.
- D. If a portion of a legally existing lot is acquired for public use in any manner including dedication, condemnation, or purchase, the remainder of such lot shall be considered as complying with the requirements of these regulations.
- E. Lot width shall be measured between the side lot lines along the minimum required front setback line, or the front lot line if no front setback is required.
- F. Unless otherwise allowed under Appendix B of the Code of Ordinances, Setbacks shall be as required herein.
- G. Setbacks Within Level One:

Front setback:

25 feet minimum, except for rear access subdivisions where reduced setback may be considered under conditions herein.

As required or allowed under Appendix B, Zoning Ordinance of the Code of Ordinances.

The Planning Division may determine that additional setbacks are required depending on the ownership and classification of the roadway or as may be required by current or long-range plans.

Interior side setback:

5-foot minimum unless otherwise required or allowed under Appendix B, Zoning Ordinance of the Code of Ordinances.

Exterior side setback:

15 foot for single-family or duplex residential use unless otherwise required or allowed under Appendix B, Zoning Ordinance of the Code of Ordinances.

25 feet for uses other than single-family or duplex use.

The Planning Division may determine that additional setbacks are required depending on the ownership and classification of the roadway or as may be required by current or long-range plans.

Rear setback:

1. For single-family or duplex dwellings, 5-foot minimum from common lot line or one foot minimum from alley use unless otherwise required or allowed under Appendix B, Zoning Ordinance of the Code of Ordinances.
2. For all other uses, 5 foot minimum. In no case shall the roof overhang extend over the property line.
3. If a lot has double frontage, 25 feet use unless otherwise required under Appendix B, Zoning Ordinance of the Code of Ordinances.

Exception to setbacks herein

1. The Planning Division may consider reducing the setback by using the average front setback on that side of the block. Such consideration will be determined by considering age, condition and use of adjacent structures, degree of nonconformity, and other situations or conditions that may exist.
2. Where setbacks exists within a block that are greater than required herein or under Appendix B of the Code of Ordinances, the Planning Division may require that a setback conform to the greatest extent practical with structures within the block to maintain the appearance and function within the block.
3. On a corner lot, having a width of less than 60 feet, a residence may be constructed as follows:
  - a. Exterior side setback — The setback shall be the average exterior side setback of the existing primary residential structures adjacent to the front and rear of the subject lot.
  - b. Front setback — The front setback shall be the average front setback of the two nearest primary structures on the same block not separated by a public street.

H. Setbacks Within Level Two:

Front setback:

100-foot minimum from a U.S.-designated roadway or Interstate highway.

50-foot minimum from a state road.

40-foot minimum from other road.

Interior side setback:

5-foot minimum

Exterior side setback:

15 foot for single-family or duplex residential use.

25 feet for uses other than single-family or duplex use.

Rear setback:

1. For single-family or duplex dwellings, 5 foot minimum from common lot line or one foot minimum from alley unless otherwise required or allowed herein.
2. For all other uses, 5 foot minimum. However, in no case shall the roof overhang extend over the property line.
3. If a lot has double frontage, 25 feet.

Exception to setbacks herein

1. An exception to the above setbacks shall occur where a nonresidential use is proposed adjacent to a single-family or duplex use, for which case a 30-foot setback shall be required.
  2. The Planning Division may determine that additional setbacks are required depending on the ownership and classification of the roadway or as may be required by current or long-range plans.
- I. Should the project cross county lines or Level of Development, the most restrictive standards between the City and county shall apply to the entire development within the City's extraterritorial jurisdiction.
  - J. All setbacks shall be measured from the edge of an existing right-of-way or following any required dedication.
  - K. A required setback shall be measured parallel to and for the entire length of the lot line on the side of the lot for which the setback is being measured. No building or structure shall be located, erected, or altered so as to have a smaller setback than the minimum setback required herein. The area between the setback and the lot line on the side of the lot for which the setback is being measured, shall be known as the setback area.

- L. Within Level One, a required setback area shall be kept free of any building or structure higher than two (2) feet, except that buildings, structures or projections shall be allowed as provided below:
1. Cornices, windowsills, flues and chimneys, and eaves may project two (2) feet into the required setback area.
  2. Fences may project into the front, side and rear setback areas on all properties except those with single-family and duplex residential uses. In properties with single-family and duplex residential uses, fences may project into the side and rear setback areas; fences may project into the front setback areas if they meet all of the following criteria:
    - a. the fence shall have at least fifty percent (50%) of the face area open and free of opaque materials;
    - b. the fence shall be no more than four (4) feet tall;
    - c. the fence shall not totally enclose all or a part of the front setback area if the front door of the residence opens into the enclosed area, unless a Postal Service approved mailbox is provided outside the enclosure;
    - d. if the fence is located near a street intersection, it shall conform to Chapter 29, Section 214(g) of the Wichita Falls Code of Ordinances, as amended, concerning view obstruction.
  3. Uncovered steps, porches, or patios that are no more than 2 feet above the adjacent grade may be placed within the required setback area.
  4. Uncovered in-ground swimming pools may be placed in the rear or side setback areas. Aboveground swimming pools, hot tubs and satellite dish antennas may be placed in the rear or interior side setback areas.
  5. Accessory buildings not exceeding 150 sq. ft. in floor area may be placed within the rear setback area, but no closer than one foot from the rear lot line.
  6. Gasoline pump islands may be placed in the front and exterior side setback area, provided that they are placed no closer than 12 feet from the property line. Canopies attached to the pump islands shall provide at least 14 feet of clearance from the ground to the

bottom of the canopy, and may be placed no closer than 1 foot from the property line.

7. Signs may be placed within the required setback areas as provided for in Section 6700 Sign Regulations of Appendix B Code of Ordinances.
8. Awnings may project into the front or exterior side setback area of a lot, or a rear setback area of a through lot, to a maximum distance of six (6) feet; provided no supporting structure for such extension is located on the ground within such setback areas. However, awnings shall not extend more than three (3) feet into such setback areas of single-family and duplex residential uses.
9. Carports may be permitted within setback areas in the following manner:

Interior side setback area. Carports constructed out of non-combustible materials with drains and gutters may be placed in an interior side setback area provided that the supporting columns are no closer than three (3) feet, and the overhang is no closer than two (2) feet from the side property line.

Front setback and exterior side setback areas. Carports may be placed in the front setback and exterior side setback areas subject to the approval of a conditional use permit, as provided for in Section 7200, Appendix B of the Code of Ordinances. Carports authorized under this section must meet the following construction standards:

Number of supporting columns = 6, maximum.

Column height = 8 feet maximum from highest grade.

Roof height shall not exceed height of primary structure.

Vertical plane from ground to seven (7) feet in the front and sides of the carport shall be left clear of walls or sheathing.

- M. Within the City, in single-family, duplex, or zero lot line residential lots, where the only vehicular access is taken from a rear alley or private access easement, which is at least twenty (20) feet wide, the front setback may be reduced to five (5) feet, provided:

1. The lots abut only a local residential street and not any larger street sections.



2. The sidewalk is constructed abutting the curb and has at least 4 feet of unobstructed width.
  3. All utilities located in the front yard or the street right-of-way are placed underground.
  4. No vehicular street access or curb cut is permitted.
  5. The entire block on both sides of the street between intersecting streets is platted at one time with a statement on the plat that front vehicular access and curb cuts are prohibited.
- N. The Planning Division and/or Department of Public Works may require additional setbacks depending on street, road or highway improvements identified in the Metropolitan Transportation Plan.
- O. The height of a building shall be measured from the average of the highest and lowest grade adjacent to the building to the highest point of the coping of a flat roof, deck line of a mansard roof, or to the average height of the highest gable on a pitched or hipped roof. The height of a structure other than a building shall be measured to the highest point of the structure.
- P. The following structures may exceed the maximum height limitations subject to the limitations of Section 6400, Airport Zoning Regulations, Appendix B of the Code of Ordinances and the following conditions:
1. Church spires or steeples, flagpoles, amateur radio transmitting antennas, and wind power generators subject to Section 5800 of Appendix B Zoning, may project beyond the maximum allowable height. However, flagpole heights shall not exceed thirty-five (35) feet in SF-1, SF-2, MFR, LO, LC, and BA zoning districts within the City and eighty (80) feet in all other zoning districts, measured from the ground. Additionally, any lighting must be from the base of the flagpole and directed away from all residences.
  2. Chimneys, vent-stacks, radio and television receiving antennas, elevator penthouses, mechanical equipment rooms, cooling towers, fire escapes, tanks, and ornamental cupolas and domes erected on the top of buildings may project beyond the maximum allowable height by no more than twelve (12) feet.
- Q. The outer two (2) feet of roof overhangs will not be counted as building coverage. Building coverage shall be measured as the total horizontal area of all buildings and roofed or covered spaces expressed as percent

of total lot area. The amount of allowed building coverage shall only be applicable within the corporate limits of the City as follows:

1. 50 percent for SF-1; SF-2; MFR; BA; single-family and duplex uses in the RMU, LC, LO, RDD and GC zoning districts.
2. 55 percent for uses other than single-family and duplex uses in the RMU, LC, LO, RDD and GC zoning districts.
3. No maximum in other zoning districts.

R. Accessory Building Setbacks

1. Front setback:  
25 ft. minimum, except for rear access subdivisions where reduced setbacks as allowed herein shall apply.

If located outside the City, the greater between 25 feet and requirements of the county.

2. Side interior setback:  
5 ft. minimum, except when the wall height exceeds 8 ft. or the total height exceeds 15 ft., the setback shall be equal to the total height.
3. Side setback exterior:  
15 ft. minimum
4. Rear Setback:  
From alley, 1 ft. minimum
5. From common property line as follows:
  - a. 1 ft. minimum for buildings equal to or less than 150 sq. ft. in area, 8 ft. in wall height, and 15 ft. in total height.
  - b. 5 ft. minimum for buildings more than 150 sq. ft. in area, except when the wall height exceeds 8 ft. or the total height exceeds 15 ft., the setback shall be equal to the total height.
6. Within the City, where there is proposed an accessory building that is of the same or similar style, uses materials that resembles and has the same detailing as the primary structure, the Commission may allow an exception to setback requirements under terms of section 7200, Appendix B, Zoning Ordinance.

## **6.11 Erosion Control**

Reserved

## **6.12 Regulations Related to Airport Proximity**

All development and improvements within Levels One and Two, and those areas located outside of Level Two where such regulation is required in the interest of public health, safety and general welfare of north central Texas, shall be subject to standards and regulations contained under Chapter 6400, Airport Zoning Regulations of Appendix B, Zoning Ordinance of the Code of Ordinances and as authorized under Chapter 241, Airport Zoning Act of the TEXAS LOCAL GOVERNMENT CODE.

## **6.13 Request for Easement, License, or Abandonment of City Property Interest:**

- A. An owner of property underlying an easement held by the City may request that the City abandon all or a portion of said easement.
- B. An owner of property abutting City property or right-of-way may request that the City license the use of City property or right-of-way or execute an easement for an encroachment on City property or right-of-way.
- C. A request for such abandonment, license, or easement will be filed in writing with the Property Management Division of the City's Department of Community Development and be accompanied by a fee of the greater of \$1,000 or the value of the requested property interest, with said property interest value to be determined by the City's Property Administrator. The City's Property Administrator may waive the aforementioned fee upon a determination that:
  - (1) the requested right or abandonment is of de minimis value and requires minimal staff time to research and define, or
  - (2) the requested right or abandonment is in exchange for a property interest of similar or greater value.
- D. If the City's Property Administrator determines that a survey or appraisal is necessary to determine the size or nature of the property or its value, the requesting owner shall pay for the cost of said survey or appraisal or provide same.
- E. If the City Manager determines that the City's interests are sufficiently protected by the proposed abandonment, license, or easement and that the execution of said document is in the interest of the City, then the City Manager may execute all documents necessary to allow the underlying or abutting property owner to utilize the requested interest in the property.

- F. This section authorizes actions that are within the discretion of City staff with respect to property interests owned by the City. This section does not reduce the right of the City Council to authorize or abandon a City interest in property. This section is not adopted pursuant to Chapter 211 of the Texas Local Government Code. A decision of an official pursuant to this section is not appealable pursuant to Sections 8 or 9 of this Appendix to the Board of Adjustments.

**SEC. 7. RESPONSIBILITY FOR PAYMENT OF INSTALLATION COST.**

- A. The subdivider shall pay all design, engineering, material, construction and installation costs of all improvements required by this ordinance unless otherwise provided in this section.
- B. In the event a subdivider desires the extension of water or sewer lines to serve his subdivision, he shall bear the entire design, engineering, material, construction and installation cost of all border, off-site and on-site lines. The Department of Public Works shall specify the size of all such lines, taking into consideration the requirements of adjacent areas of future growth which must be served by such lines. The decision of the Department of Public Works concerning the size of the required lines shall be final.
- C. The construction of water and sewer lines in accordance with City plans and specifications will be done by a contractor of the subdividers choice; provided however, that such contractor shall furnish a performance bond and warranty bond, executed by a corporate surety authorized to do business in the State of Texas acceptable to the City and maintaining in Wichita County an agent upon whom service of citation may be had, in an amount equal to the total construction cost. Said bond shall be conditioned upon:
  - 1. Completion of the entire construction in full conformity with the plans and specifications promulgated or approved by the Department of Public Works, and
  - 2. Payment in full by the contractor of all claims for labor performed or materials furnished, in connection with such construction. All such construction work shall be subject to inspection by the Department of Public Works or the appropriate governmental unit if not the City as required, and no portion of any line installed in any excavation shall be covered unless and until the construction of such portion shall have been inspected and approved by the Department of Public Works and/or the respective governmental unit as required.
- D. Should the Department of Public Works require the installation of water and sewer facilities of a larger capacity than necessary to provide adequate water or sewer service to the subdivider's property, the difference between the cost of such larger facilities and the size facility required to serve the subdivision will be paid for by the City of Wichita Falls. Such facilities may be constructed under contract awarded by the City, with a predetermined rate for the developer's share to be deposited with the Department of Public Works prior to the award of the contract. At

the option of the City, such facilities may be constructed under a contract awarded by the developer, provided City and state requirements are met.

Under either system, the pro rata share of the cost to be borne by the developer shall include all material, construction, and installation cost for the size facility adequate to serve the developer's property. For the purposes of this article, the minimum size line required to serve a subdivision shall not be less than eight-inch water and/or sewer.

- E. All sewer and water lines constructed or installed pursuant to the provisions of this ordinance shall, when completed and accepted by the Department of Public Works, become the property of the City, free and clear of all encumbrances. The subdivider shall provide a maintenance bond on the sewer and water lines for a period of one year after the date on which the City accepts the property. Each and every contract entered into between a subdivider and a contractor for the installation of sewer or water lines pursuant to the provisions of this ordinance shall recite therein the provisions of this subsection.
- F. No sewer or water lines shall be installed or constructed except within a public street or alley, or within an easement granted to the City by appropriate written instrument filed for record with the county clerk of Wichita County at the expense of the person requesting the extension of existing lines.
- G. No lift station, sanitary sewer system, or force main shall be constructed as part of the sewer line extension unless the subdivider agrees that he will, at his own expense, construct such elements in accordance with the design standards provided by the Department of Public Works or in the case of lift stations a design prepared by the subdivider's engineer and approved by the Department of Public Works, or a prefabricated installation of similar design and considered equal by the Department of Public Works.
- H. If the Commission or plans adopted by the City Council requires the installation of any street with pavement over forty-eight (48) feet, the City shall award the contract for construction and the developer shall deposit his share of the cost of construction with the Department of Public Works prior to award of the contract. The developer's share of the cost will include curb and gutters including median curbs as required, and pavement for a forty-eight (48) foot street.
- I. In no event shall the City be obligated to proceed under the terms of this section if sufficient funds are not available. Nothing in this ordinance shall be construed as a surrender by the City of its control over the streets, alleys, public ways or public easements within the City of Wichita Falls.

- J. No person shall acquire any vested rights under the Provisions of this section.
- K. Withholding Improvements Until Plat Approved.
  - 1. The City shall withhold all City improvements of whatsoever nature including the furnishing of sewage facilities and water service from all subdivisions, which have not been approved as provided by law and further, no permit shall be issued by the building inspector of the City on any piece of property other than an original or a resubdivided lot in a duly approved and recorded subdivision, except the building inspector may issue a temporary connection of utilities permit for construction purposes and only during the time of actual construction on unplatted tracts of land if the owner of such property will sign an agreement stating that he will forthwith start proceedings to have such property approved and platted in accordance with these regulations and further acknowledge his understanding that a certificate of occupancy and a permanent permit for connection of public utilities shall be withheld until the platting of such property has been so approved and recorded.

The temporary permit shall automatically terminate within one hundred (100) days from its issuance date or upon completion of construction. The master plat must be approved and recorded within one hundred (100) days from the temporary building permit issuance date.

The following is the procedure required for the owner of such property to follow before entering into a platting agreement:

- a. Cause an abstractor or lawyer's certificate of ownership to be prepared and furnished to the Planning Division.
- b. Cause a dedication instrument to be prepared covering the dedication of property for public use, as determined by existing ordinances of the City. All lien holders of record shall be required to subordinate their lien on the property dedicated for public use. These instruments shall be placed in the custody of the City and/or the respective governmental unit as required to be recorded by the City and/or the respective governmental unit as required in the county clerk's office of the county(ies) in which the project is located, in the event that the person executing a platting agreement fails to complete the platting process forthwith as agreed.

2. The building inspector shall not issue a building permit until he has received approval from departments having purview over the plat requirements.
- L. The developer shall furnish to the Department of Public Works or the appropriate governmental unit if not the City as required a maintenance bond, with an approved surety, in an amount to one hundred per cent (100%) of the total cost of improvements constructed or installed pursuant to the provisions of this ordinance, conditioned that the subdivider shall pay all costs of maintaining, repairing, and replacing any defective parts, workmanship, or equipment for a period of one (1) year after the improvement is accepted by the Department of Public Works or the appropriate governmental unit if not the City as required. The said maintenance bond shall be provided before the Department of Public Works or the appropriate governmental unit if not the City as required issues a letter of acceptance or approval for the said improvements.



**SEC. 8. VARIANCES.****8.1 Purpose**

The purpose of the variance procedure is to provide relaxation of the terms of the Subdivision and Development Regulations, when owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship.

**8.2 Jurisdiction**

The Planning Division shall be responsible for the administration of the variance procedure, and the Board of Adjustments shall be responsible for review, evaluation, and action on all applications.

**8.3 Applicability**

A variance may be authorized only for development standards that affect sizes of lot area, yards, setbacks, heights, lot frontage, and other requirements contained herein as applicable. This procedure shall not be applicable to establishment or expansion of a use that is otherwise prohibited or to grant relief from administrative procedures, nor shall it apply to streets, a utility or drainage.

**8.4 Submission Requirements**

The application for Variance shall be submitted to the Planning Division at least twenty-one (21) days prior to the regular meeting of the Board of Adjustments. The application shall include the following:

- A. Name, addresses, and phone number of the applicant(s).
- B. Legal description of the property.
- C. Description of the nature of the variance requested.
- D. A narrative statement demonstrating that the requested variance conforms to the following standards:
  - 1. That special conditions and circumstances exist which are peculiar to the lot, property or tract and which are not necessarily applicable to other lots, properties or tracts within the area or neighborhood.

2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of a right commonly enjoyed by other lots, properties or tracts within the area or neighborhood under the terms of this Ordinance.
  3. That the special conditions and circumstances do not result from the actions of the applicant.
  4. That the granting of the variance would otherwise be in harmony with the objectives of this Ordinance and would not confer upon the applicant any special privilege that is denied by this Ordinance to other lots, properties or tracts within the area or neighborhood.
- E. A fee established in the Development Fee Ordinance adopted by the City Council, which may from time to time, adjust and revise the fees established without amending this Ordinance.
- F. Such other information as the Planning Division may require.

## **8.5 Public Hearing and Notice**

The Planning Division shall schedule a hearing by the Board of Adjustment by placing it on the agenda of the next regularly scheduled meeting of the Board, and shall provide notice as prescribed herein.

## **8.6 Report of the Director of Community Development**

The Planning Division shall review the variance application and submit a report to the Board of Adjustment. This report shall be made available to the applicant at least ten (10) days prior to the public hearing.

## **8.7 Action by the Board of Adjustment**

The Board of Adjustment shall review the variance application against the Review and Evaluation Criteria established herein and shall either approve the request, conditionally approve or deny the request, unless it requires additional information before it can make a final determination. In such case, the Board shall request the specific information required and schedule a rehearing at its next regular meeting.

The concurring vote of four members of the Board of Adjustment shall be necessary to grant a variance.

## **8.8 Review and Evaluation Criteria**

The application for variance shall be reviewed and evaluated using the following criteria:

- A. The granting of the variance will not be contrary to the public interest.
- B. Special conditions exist, other than financial hardship alone, whereby a literal enforcement of the terms of this Ordinance will result in unnecessary hardship to the owner of the land.
- C. The variance will not permit an activity upon the land that is not allowed by the terms of this Ordinance.
- D. The granting of the variance is consistent with the intent of this Ordinance, is in harmony herewith, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

## **8.9 Lapse of Approval**

Any variance granted or authorized by the Board of Adjustment under the provisions of this Ordinance shall authorize the issuance of the building permit for a period of one hundred eighty (180) days or the filing of a final plat within sixty (60) days from the date of favorable action of the Board, unless said Board shall have in its action approved a longer period of time and has so shown such specific longer period in the minutes of its action. If the building permit shall not have been issued within said one hundred eighty (180) day period, or the final plat filed within sixty (60) days, or such extended period as the Board may have specifically granted, then the variance shall be deemed to have been waived and all rights there under terminated. Such termination and waiver shall be without prejudice to a subsequent appeal and such subsequent appeal shall be subject to the same regulation and requirement for hearing as herein specified for the original appeal.

**Sec. 9. ADMINISTRATIVE APPEALS****9.1 Purpose**

The purpose of the Administrative Appeals procedure is to afford review of administrative actions. Appeals concerning the interpretation or administration of this ordinance may be filed by any person aggrieved, where such action may be in error.

**9.2 Jurisdiction**

Administrative Appeals shall be reviewed, evaluated, and acted on by the Board of Adjustments.

**9.3 Appeals**

Appeals to the Board of Adjustment may be taken by any person aggrieved, or by any officer, department, or board of the City affected by the administrative decision of officials having responsibilities for the administration or implementation of this Ordinance.

**9.4 Submission of Appeals**

All appeals shall be submitted within fifteen (15) days time after the decision is made upon which the appeal is based, by filing with the Planning Division a Notice of Appeal, specifying the grounds upon which the appeal is based. The burden of proof shall rest with the appellant to establish the necessary facts to warrant favorable action by the Board.

A fee shall be paid, established in the Development Fee Ordinance adopted by the City Council, which may from time to time, adjust and revise the fees established without amending this Ordinance.

**9.5 Stay of Proceedings**

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with him/her that by reason of facts stated in the certificate a stay would, in his/her opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application with notice to the officer from whom the appeal is taken and on due cause shown.

**Sec. 10. PUBLIC NOTICE PROCEDURES****10.1 Purpose**

The purpose of this public notice procedure is to establish the minimum requirement for notice to be given with respect to public hearings required by this ordinance.

**10.2 Procedure for Notifying Property Owners**

Wherever public notice calls for notifying property owners, such notice shall be served by depositing the same, properly addressed and postage paid, in the Wichita Falls post office, not less than ten (10) days before the date set for the public hearing to all such owners of land who have rendered their property for City or County taxes as the ownership appears on the best available information.

**10.3 Public Notice for Variances**

Notice of the public hearing for a variance shall be given as follows:

- A. Notice of the public hearing shall be posted at least 72 hours prior to the public hearing in accordance with the Open Meetings Act.
- B. Notice shall be given to the parties in interest by mail at least ten days prior to the public hearing date.
- C. At least fifteen (15) days prior to the date of the Board public hearing, the applicant or his agent shall place a sign or signs on the property for which the variance has been submitted. Such signs shall be placed on the property, within ten (10) feet and parallel to any street right-of-way, and shall be visible from such streets. These signs shall be furnished by the Planning Division for a fee prescribed in this ordinance, and the applicant shall use his best effort to maintain posting throughout the period of the public hearings.
- D. Written notice shall be given to property owners of real property lying within 200 feet of the property on which a variance is being sought subject to additional conditions for public notification contained within Appendix B, Zoning Ordinance. Such notice shall be given at least ten (10) days prior to the public hearing.

**SEC. 11. Parks.**

- A. All subdividers shall be required to set aside land for park purposes under conditions set out in paragraph B. of this section when the master park plan of the City of Wichita Falls shows a park is required in the area to be subdivided and the subdivider shall show such land set aside in compliance with this section on the master plat or preliminary plat. All areas set aside for park purposes shall conform to the master park plan as to general location, area and type of development. The parks and recreation department should be consulted when developing the master plat so that few revisions will be necessary later.
- B. The City shall be granted an option to purchase the land so set aside for park purposes upon the following terms. If at the end of one year from the date of approval by the board of the master plat or preliminary plat if there is no master plat, the total area covered by said plat has been at least fifty per cent (50%) developed, then and in that event the City shall be required to exercise its option within thirty (30) days thereafter or release the same to the subdivider with the purchase price to be computed as set out in paragraph C. If at the end of one year there has not been a fifty per cent (50%) development, then and in that event the option shall continue in full force and effect until said total area has been at least fifty per cent (50%) developed with the City then required to exercise or release its option as set out above.
- C. The price to be paid by the City for the land set aside for park purposes shall be based on the fair market value of the raw land as of the date the master or preliminary plat is first filed with the board, plus the pro rata part of all development cost attributable to the park land so purchased, including abutting streets and utilities necessary to serve the park land.
- D. All subdividers shall also submit on the master plat an indication showing how the park area is to be developed in the event the City is unable to purchase the property or rejects it because of other reasons.
- E. All areas reserved for park land shall conform to the City of Wichita Falls master park plan as to general location, area and type of development. The City shall have the right to accept or reject park land proposals as shown on the developer's master plat, at such time as the master plat is brought before the board for approval. The one year option period, which the City has to buy the land, shall begin with the planning board's approval of the developer's master Plat.

**SEC. 12. PENAL PROVISIONS.**

If any individual (including any officer, agent or employee acting in behalf of any individual, firm, association or corporation) violates any provision of this ordinance, he shall be guilty of a misdemeanor, and, upon conviction of such violation, he shall be fined an amount not exceeding five hundred dollars (\$500.00). Each day that such violation continues shall be a separate offense. Prosecution or conviction under this provision shall never be a bar to any other remedy or relief for violations of this ordinance.

**SEC. 13. ENFORCEMENT OTHER THAN PENAL.**

- A. No permit shall be issued by the Health Department and/or Department of Public Works for the installation of an on-site sewerage system upon any lot in a subdivision for which a final plat has not been approved or on a lot in a subdivision in which the standards contained herein or referred to herein have not been complied with in full.
- B. No building, repair, plumbing or electrical permit shall be issued by the Building Official for any structure on a lot in a subdivision in which a final plat has not been approved or on a lot in a subdivision in which the standards contained herein or referred to herein have not been complied with in full, except in those situations described herein.
- C. The Department of Public Works and/or the respective governmental unit as required shall not repair, maintain, install or provide any streets or public utility services in any subdivision for which a final plat has not been approved or in which the standards contained herein or referred to herein have not been complied with in full.
- D. The City shall not sell, supply or allow to be sold or supplied any water, gas, electricity or sewerage service within a subdivision for which a final plat has not been approved or in which the standards contained herein or referred to herein have not been complied with in full.
- E. In behalf of the City and/or the respective governmental unit as required, the City attorney may institute appropriate action in the district court to enjoin any violation of this ordinance or the standards referred to herein which violation occurs within the City limits or within the extraterritorial jurisdiction of the City or as such jurisdiction is determined.
- F. If any subdivision exists for which a final plat has not been approved or in which the standards contained herein or referred to herein have not been complied with in full, the City attorney may, in behalf of the City and/or the respective governmental unit as required, cause an instrument to be filed in the deed records of the county or counties in which such subdivision or part thereof lies. The instrument may state the fact of such noncompliance or failure to secure final plat approval and the fact that the provisions of paragraphs A., B., C. and D. of this section will apply to the subdivision and the lots therein. If full compliance and final plat approval are secured after the filing of such instrument, the City attorney shall forthwith file an instrument in the deed records of each such county stating that paragraphs A., B., C. and D. no longer apply.



**SEC. 14. SEVERABILITY.**

If any section, subsection, clause, phrase or sentence of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without invalid provision or application, and to this end the provisions of this ordinance are declared to be severable

**SEC. 15. REPEAL OF CONFLICTING ORDINANCES AND RESOLUTIONS.**

All ordinances and resolutions of the City of Wichita Falls, Texas, in conflict herewith. are hereby expressly repealed.